

**Before the State of South Carolina
Department of Insurance**

In the matter of:


Mr. Russell R. Diachok
4700 South Syracuse Parkway, Suite 1000
Denver, Colorado 80237.

SCDOI File Number 2003-118223

**Consent Order
Imposing Administrative Penalty
and Allowing Licensure**

This matter comes before me pursuant to an agreement entered into, between the State of South Carolina Department of Insurance and Russell R. Diachok, an applicant for a South Carolina non-resident insurance agent license.

In February of 2003, Geneos Wealth Management Inc. (the Agency) applied for an insurance agency license in South Carolina. At the same time, their President, Mr. Russell Diachok, also submitted an application for an individual non-resident insurance agent's license. The Department granted both applications in February 21, 2003.

In April of 2003, the Colorado Division of Insurance notified the Agency that Mr. Diachok had failed to disclose a Consent Order issued by the State of New Jersey in July of 2001 for Diachok's failure to report a change of home address in a timely manner. Colorado imposed a ~~\$250~~ ^{\$1,000} fine on Mr. Diochok for this offense. 

Consequently, on May 16, 2003, Mr. Diachok wrote a letter to the Department notifying us of the Colorado Order. Upon investigation, the Department determined that Mr. Diachok had failed to disclose the New Jersey disciplinary order in his non-resident license application.

The parties have agreed that, rather than contesting this allegation, they would submit the entire matter to me, along with their specific recommendations, so that I could form my summary decision based solely on the record. The mutual recommendation was that the Department would continue to allow Mr. Diachok to be licensed as a non-resident insurance agent license upon the submission of an administrative fine in the total amount of \$500.

Section 38-43-130 of the South Carolina Code allows the Director of Insurance to suspend immediately a license that appears to have been granted through misrepresentation. In the alternative, that Code section allows the Director to impose a financial penalty in lieu of revocation or suspension of a license. Therefore, under the discretionary authority provided to me within S.C. Code Ann. § 38-43-130 (Supp. 2002), and after carefully considering the recommendation of the parties, I hereby conclude that the appropriate sanction against Mr. Diachok is an administrative penalty in the total amount of \$500.



Russell R. Diachok

The parties have reached this agreement through negotiation and compromise and in consideration of the nature of the charges at issue. It is further agreed by the parties that the total amount of the administrative penalty must, pursuant to the provisions of S.C. Code Ann. § 38-43-130 (Supp. 2002), be paid within fifteen (15) days from the date of my signature upon this consent order. If that total penalty amount is not properly paid on or before that date, Mr. Diachok's nonresident agent license will be revoked without further administrative proceedings. The parties expressly agree and understand Mr. Diachok's payment of the agreed-upon penalty constitutes full accord and satisfaction of this matter.

By his signature upon this consent order Russell R. Diachok acknowledges that he understands this consent order is a public record subject to the disclosure requirements of the State of South Carolina's *Freedom of Information Act*, S.C. Code Ann. §§ 30-4-10, *et seq.* (1991 and Supp. 2002).

Nothing contained within this administrative disciplinary order should be construed to limit, or to deprive any person of any private right of action under the law. Nothing contained within this administrative disciplinary order should be construed to limit, in any manner, the criminal jurisdiction of any law enforcement officer or judicial officer. Nothing contained within this administrative order should be construed to limit the statutory duty of the Director, exercised either directly or through the Department, to "report to the Attorney General or other appropriate law enforcement officials criminal violations of the laws relative to the business of insurance or the provisions of this title which he considers necessary to report." S.C. Code Ann. § 38-3-110(3) (Supp. 2002).

It is, therefore, ordered that, within fifteen days from my date and signature upon this consent order, Russell Diachok shall pay through the Department an administrative penalty in the total amount of \$500.

It is further ordered that a copy of this consent order be immediately transmitted to the National Association of Insurance Commissioners for its distribution to its member states and a copy be placed in Mr. Diachok's licensing file.

This order takes effect upon the date of my signature below.



Ernst N. Csiszar
Director of Insurance

August 21, 2003, at
Columbia, South Carolina



Russell R. Diachok

I CONSENT TO THE ABOVE:



Mr. Russell R. Diachok
4700 South Syracuse Parkway, Suite 1000
Denver, Colorado 80237

Dated this 12th day of August 2003



Russell R. Diachok